

**Executive Summary – Enforcement Matter – Case No. 48208**  
**Peachleaf Associates Venture #1, L.P.**  
**RN101183499**  
**Docket No. 2014-0154-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Peachleaf Park, 1617 Peach Leaf Street, Harris County

**Type of Operation:**

Public water supply system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 23, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$3,909

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,909

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 2, 2013

**Date(s) of NOE(s):** January 10, 2014

**Executive Summary – Enforcement Matter – Case No. 48208**  
**Peachleaf Associates Venture #1, L.P.**  
**RN101183499**  
**Docket No. 2014-0154-PWS-E**

***Violation Information***

1. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director (ED) each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period [30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1)].
3. Failed to collect routine distribution water samples for coliform analysis and failed to post public notification for failure to collect routine distribution water samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs and to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, including but not limited to posting public notification for the failure to collect routine samples;
  - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period; and
  - iii. Begin complying with applicable coliform monitoring requirements, by collecting all routine, repeat and increased distribution samples, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.

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**Peachleaf Associates Venture #1, L.P.**  
**RN101183499**  
**Docket No. 2014-0154-PWS-E**

- b. Within 45 days, submit written certification of compliance with Ordering Provisions a.i. and a.ii.
- c. Within 90 days:
  - i. Begin submitting DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting; and
  - ii. Begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the ED within ten days of the month following the end of the monitoring period. This provision will be satisfied upon two compliant monitoring periods.
- d. Within 225 days, submit written certification of compliance with Ordering Provision a.iii.
- e. Within 285 days, submit written certification to demonstrate compliance with Ordering Provision c.i.
- f. Within 470 days, submit written certification to demonstrate compliance with Ordering Provision c.ii.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** John P. Hulbirt, Vice President, Peachleaf Associates Venture #1, L.P., 1611 Peach Leaf Street, Houston, Texas 77039  
Cecil Ellison, President, Peachleaf Associates Venture #1, L.P., 1611 Peach Leaf Street, Houston, Texas 77039  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

**DATES** Assigned **13-Jan-2014**  
PCW **27-Jan-2014** Screening **27-Jan-2014** EPA Due **30-Jun-2012**

## RESPONDENT/FACILITY INFORMATION

Respondent **Peachleaf Associates Venture #1, L.P.**  
Reg. Ent. Ref. No. **RN101183499**  
Facility/Site Region **12-Houston** Major/Minor Source **Minor**

## CASE INFORMATION

Enf./Case ID No. **48208** No. of Violations **1**  
Docket No. **2014-0154-PWS-E** Order Type **Findings**  
Media Program(s) **Public Water Supply** Government/Non-Profit **No**  
Multi-Media  Enf. Coordinator **Jacquelyn Green**  
EC's Team **Enforcement Team 1**  
Admin. Penalty \$ Limit Minimum **\$50** Maximum **\$1,000**

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$700**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **40.0%** Enhancement Subtotals 2, 3, & 7 **\$280**

Notes Enhancement for eight NOVs with same/similar violations.

**Culpability** **No** **0.0%** Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0**

**Economic Benefit** **0.0%** Enhancement\* Subtotal 6 **\$0**

Total EB Amounts **\$179**  
Approx. Cost of Compliance **\$299**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$980**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **17.9%** Adjustment **\$175**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided costs associated with Violation No. 1.

Final Penalty Amount **\$1,155**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$1,155**

**DEFERRAL** **0.0%** Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$1,155**

Screening Date 27-Jan-2014

Docket No. 2014-0154-PWS-E

PCW

Respondent Peachleaf Associates Venture #1, L.P.

Policy Revision 2 (September 2002)

Case ID No. 48208

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101183499

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for eight NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

Screening Date 27-Jan-2014

Docket No. 2014-0154-PWS-E

PCW

Respondent Peachleaf Associates Venture #1, L.P.

Policy Revision 2 (September 2002)

Case ID No. 48208

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101183499

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description

Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not submit DLQORs for the fourth quarter of 2009 through the second quarter of 2011.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

## Violation Events

Number of Violation Events 7

637 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$700

Seven single events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$700

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$179

Violation Final Penalty Total \$1,155

This violation Final Assessed Penalty (adjusted for limits) \$1,155

# Economic Benefit Worksheet

Respondent Peachleaf Associates Venture #1, L.P.

Case ID No. 48208

Reg. Ent. Reference No. RN101183499

Media Public Water Supply

Violation No. 1

Percent Interest 5.0  
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	2-Dec-2013	24-Oct-2014	0.89	\$2	n/a	\$2
Training/Sampling	\$100	2-Dec-2013	24-Oct-2014	0.89	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that the self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs, calculated from the record review date to the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$154	10-Jan-2010	10-Jul-2011	2.41	\$19	\$154	\$173
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit DLQORs (\$22 per report x 7 missed reports), calculated from the date the report was due for the fourth quarter of 2009 to the date the report was due for the second quarter of 2011.

Approx. Cost of Compliance

\$299

TOTAL

\$179





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	13-Jan-2014	<b>Screening</b>	27-Jan-2014	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	27-Jan-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Peachleaf Associates Venture #1, L.P.		
<b>Reg. Ent. Ref. No.</b>	RN101183499		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48208	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-0154-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jacquelyn Green
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,450
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	40.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$580
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Notes: Enhancement for eight NOV's with same/similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$732  
Approx. Cost of Compliance: \$811

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,030
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	35.7%	<b>Adjustment</b>	\$724
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs associated with Violation Nos. 1, 2, and 3.

<b>Final Penalty Amount</b>	\$2,754
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,754
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,754
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Screening Date 27-Jan-2014

Docket No. 2014-0154-PWS-E

PCW

Respondent Peachleaf Associates Venture #1, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48208

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101183499

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for eight NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 40%

Screening Date 27-Jan-2014

Docket No. 2014-0154-PWS-E

PCW

Respondent Peachleaf Associates Venture #1, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48208

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101183499

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description

Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not submit DLQORs for the third quarter of 2011 through the second quarter of 2013.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

## Violation Events

Number of Violation Events 8

730 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$400

Eight single events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$400

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$191

Violation Final Penalty Total \$760

This violation Final Assessed Penalty (adjusted for limits) \$760

# Economic Benefit Worksheet

**Respondent** Peachleaf Associates Venture #1, L.P.  
**Case ID No.** 48208  
**Reg. Ent. Reference No.** RN101183499  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs of compliance for this violation are included in the Economic Benefit for Violation No. 1 on the accompanying Penalty Calculation Worksheet.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$176	10-Oct-2012	10-Jul-2013	1.67	\$15	\$176	\$191
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit DLQORs (\$22 per report x 8 missed reports). Date required is the date the DLQOR was due for the third quarter of 2011 and the final date is the date the report was due for the second quarter of 2013.

Approx. Cost of Compliance

\$176

**TOTAL**

\$191

Screening Date 27-Jan-2014

Docket No. 2014-0154-PWS-E

PCW

Respondent Peachleaf Associates Venture #1, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48208

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101183499

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.117(c)(2) and (i)(1)

## Violation Description

Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period. Specifically, the Respondent did not collect the required lead and copper samples for the January 1, 2009 through December 31, 2011 triennial reduced monitoring period and the January 1, 2013 through December 31, 2013 annual reduced monitoring period.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 2

1428 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$300

Two single events recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$393

Violation Final Penalty Total \$570

This violation Final Assessed Penalty (adjusted for limits) \$570

# Economic Benefit Worksheet

**Respondent** Peachleaf Associates Venture #1, L.P.  
**Case ID No.** 48208  
**Reg. Ent. Reference No.** RN101183499  
**Media** Public Water Supply  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$100	2-Dec-2013	24-Oct-2014	0.89	\$4	\$4

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel, analyzed by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	1-Jan-2009	31-Dec-2013	5.92	\$89	\$300
Other (as needed)			0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to collect and have analyzed all lead and copper samples (\$30 per sample x 5 samples x 2 monitoring periods), calculated for the monitoring period in which samples were required.

**Approx. Cost of Compliance**

\$400

**TOTAL**

\$393

Screening Date 27-Jan-2014

Docket No. 2014-0154-PWS-E

PCW

Respondent Peachleaf Associates Venture #1, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48208

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101183499

Media [Statute] Public Water Supply

Enf. Coordinator Jacquelyn Green

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and Tex. Health &amp; Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of June through October 2013 and failed to post public notification for failure to collect routine distribution water samples for the months of June and August 2013.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect routine distribution coliform samples and provide public notification could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 5

152 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$750

Five monthly events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$148

Violation Final Penalty Total \$1,424

This violation Final Assessed Penalty (adjusted for limits) \$1,424

# Economic Benefit Worksheet

**Respondent** Peachleaf Associates Venture #1, L.P.  
**Case ID No.** 48208  
**Reg. Ent. Reference No.** RN101183499  
**Media** Public Water Supply  
**Violation No.** 3

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	2-Dec-2013	24-Oct-2014	0.89	\$4	n/a	\$4

### Notes for DELAYED costs

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Jun-2013	31-Oct-2013	1.33	\$8	\$125	\$133
Other (as needed)	\$10	1-Jul-2013	30-Nov-2013	1.33	\$1	\$10	\$11

### Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct routine coliform sampling (\$25 per sample x 5 missed samples), calculated for the months sampling was not conducted. The other avoided cost includes the estimated amount to provide public notification (\$5 x 3 missed notices), calculated for the period the public notifications were required.

**Approx. Cost of Compliance**

\$235

**TOTAL**

\$148



The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600630768, RN101183499, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600630768, Peachleaf Associates Venture #1, L.P. **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101183499, PEACHLEAF PARK **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 1617 Peach Leaf Street in Harris County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION**  
1012321

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** March 25, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 25, 2009 to March 25, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jacquelyn Green

**Phone:** (512) 239-2587

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- |   |              |  |                          |
|---|--------------|--|--------------------------|
| 1 | Date:        | 08/08/2013 (1139574)   | CN600630768              |
|   | Self Report? | NO   | Classification: Moderate |
|   | Citation:    | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)   |                          |
|   |              | 30 TAC Chapter 290, SubChapter F 290.109(f)(5)   |                          |
|   |              | 30 TAC Chapter 290, SubChapter F 290.109(f)(7)   |                          |
|   | Description: | TCR Routine MR Violation 06/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline. |                          |

2	Date: 09/20/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description: TCR Routine MR Violation 07/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.		
3	Date: 10/14/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description: TCR Routine MR Violation 08/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.		
4	Date: 10/21/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)		
	Description: JUNE/2013 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 06/2013.		
5	Date: 11/07/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description: TCR Routine MR Violation 09/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.		
6	Date: 11/14/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.110(f)(2) 30 TAC Chapter 290, SubChapter F 290.110(f)(3)		
	Description: DLQOR MR 1Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2013 within the required timeline.		
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.110(f)(2) 30 TAC Chapter 290, SubChapter F 290.110(f)(3)		
	Description: DLQOR MR 2Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 2nd quarter of 2013 within the required timeline.		
7	Date: 12/12/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description: TCR Routine MR Violation 10/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.		
8	Date: 12/18/2013 (1139574)	CN600630768	
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)		
	Description: AUG/2013 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 08/2013.		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

**Customer, Respondent,** CN600630768, Peachleaf Associates Venture #1, L.P. **Classification:** NOT APPLICABLE **Rating:** N/A  
**or Owner/Operator:** Venture #1, L.P.  
**Regulated Entity:** RN101183499, PEACHLEAF PARK **Classification:** NOT APPLICABLE **Rating:** N/A

### Component Appendices

#### **Appendix A**

#### **All NOVs Issued During Component Period 3/25/2009 and 3/25/2014**

- 1\*      Date:      08/08/2013      (1139574)      CN600630768  
Classification:      Moderate  
Self Report?      NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
Description:      TCR Routine MR Violation 06/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 2      Date:      09/20/2013      (1139574)      CN600630768  
Classification:      Moderate  
Self Report?      NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
Description:      TCR Routine MR Violation 07/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 3      Date:      10/14/2013      (1139574)      CN600630768  
Classification:      Moderate  
Self Report?      NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
Description:      TCR Routine MR Violation 08/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 4      Date:      10/21/2013      (1139574)      CN600630768  
Classification:      Moderate  
Self Report?      NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description:      JUNE/2013 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 06/2013.
- 5      Date:      11/07/2013      (1139574)      CN600630768  
Classification:      Moderate  
Self Report?      NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
Description:      TCR Routine MR Violation 09/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 6      Date:      11/14/2013      (1139574)      CN600630768  
Classification:      Moderate  
Self Report?      NO      For Informational Purposes Only  
Citation:      30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description:      DLQOR MR 1Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2013 within the required timeline.  
Classification:      Moderate

Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
 Description: DLQOR MR 2Q2013 - The system failed to monitor and/or report distribution  
 disinfectant residuals to the TCEQ for the 2nd quarter of 2013 within the required  
 timeline.

7 Date: 12/12/2013 (1139574) CN600630768  
 Classification: Moderate

Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine MR Violation 10/2013 - Failure to collect and/or submit any routine  
 monitoring sample(s) within the required timeline.

8 Date: 12/18/2013 (1139574) CN600630768  
 Classification: Moderate

Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: AUG/2013 TCR Routine MR PN Posting and Reporting Violation - Failure to submit  
 a signed certificate of delivery to the Executive Director certifying that public  
 notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time  
 period that public notice was required for failing to conduct routine coliform  
 monitoring for the month of 08/2013.

\* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

## Appendix B

### All Investigations Conducted During Component Period March 25, 2009 and March 25, 2014

(701230)  
 Item 1 May 13, 2009\*\* For Informational Purposes Only  
 (748770)  
 Item 2 July 15, 2009\*\* For Informational Purposes Only  
 (1139574)  
 Item 3 January 08, 2014 For Informational Purposes Only  
 (1140394)  
 Item 4 January 10, 2014 For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PEACHLEAF ASSOCIATES  
VENTURE #1, L.P.  
RN101183499

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2014-0154-PWS-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Peachleaf Associates Venture #1, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply system located at 1617 Peach Leaf Street in Harris County, Texas (the "Facility") that has two service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on December 2, 2013, TCEQ staff documented that the Respondent did not submit Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not submit DLQORs for the fourth quarter of 2009 through the second quarter of 2013.
3. During a record review conducted on December 2, 2013, TCEQ staff documented that the Respondent did not collect the lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period. Specifically, the Respondent did not collect the required lead and copper samples for the January 1, 2009 through December 31, 2011 triennial reduced monitoring period and the January 1, 2013 through December 31, 2013 annual reduced monitoring period.
4. During a record review conducted on December 2, 2013, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of June through October 2013 and failed to post public notification for failure to collect routine distribution water samples for the months of June, July, and August 2013.
5. The Respondent received notice of the violations on January 13, 2014.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to post public notification for failure to collect routine distribution water samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas



Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Three Thousand Nine Hundred Nine Dollars (\$3,909) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Three Thousand Nine Hundred Nine Dollar (\$3,909) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Nine Hundred Nine Dollars (\$3,909) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Peachleaf Associates Venture #1, L.P., Docket No. 2014-0154-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110, and to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, including but not limited to posting public notification for the failure to collect routine samples, in accordance with 30 TEX. ADMIN. CODE § 290.122;

- ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117; and
  - iii. Begin complying with applicable coliform monitoring requirements, by collecting all routine, repeat and increased distribution samples, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii., in accordance with Ordering Provision No. 2.g below.
- c. Within 90 days after the effective date of this Agreed Order:
  - i. Begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - ii. Begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon one compliant monitoring period.
- d. Within 225 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a.iii, in accordance with Ordering Provision No. 2.g below.
- e. Within 285 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.i.

- f. Within 470 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.ii.
- g. The certifications required by Ordering Provisions Nos. 2.b, 2.d, 2.e, and 2.f shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

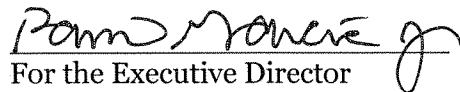
- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

11/25/14  
Date

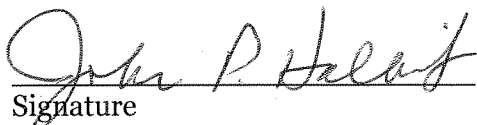
I, the undersigned, have read and understand the attached Agreed Order in the matter of Peachleaf Associates Venture #1, L.P. I am authorized to agree to the attached Agreed Order on behalf of Peachleaf Associates Venture #1, L.P., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Peachleaf Associates Venture #1, L.P. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

April 16, 2014  
Date

John P. Halbirt  
Name (Printed or typed)  
Authorized Representative of  
Peachleaf Associates Venture #1, L.P.

Vice President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.